

RESOLUTION NUMBER R-295879

ADOPTED ON DECEMBER 11, 2001

WHEREAS, Security Trust Company, Owner, and Western Pacific Housing, Permittee, filed an application with the City of San Diego for a permit to develop 138 single-family homes, twenty-six affordable housing units, and a 2.6-acre recreational facility for the Santa Monica at Black Mountain Ranch [Santa Monica] project, located in the southwestern portion of the Black Mountain Ranch Subarea, and legally described as the West One-Half of the Northwest One-Quarter of Section 2, Township 14 South, Range 3 West, San Bernardino Base Meridian, in the Black Mountain Ranch [BMR] Subarea Plan area, in the AR-1-1 zone, which is proposed to be rezoned to the RS-1-12 zone; and

WHEREAS, on August 30, 2001, the Planning Commission of the City of San Diego considered Site Development Permit/Planned Development Permit [SDP/SDP] No. 40-0969, and pursuant to Resolution No. 3169-2-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on December 11, 2001, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same;; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to SDP/PDP No. 40-0969:

I. FINDINGS FOR PLANNED DEVELOPMENT PERMIT APPROVAL - SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0604:

A Planned Development Permit may be approved or conditionally approved only if the decision maker makes all of the findings in SDMC section 126.0604(a) and the supplemental findings in

SDMC section 126.0604(b) that are applicable to the proposed development as specified in this section.

1. The proposed development will not adversely affect the applicable land use plan: The Santa Monica project is located in the western section of the 5,100 acre Black Mountain Ranch Subarea. The BMR Subarea Plan designates this site for moderately low-density residential development, with the majority of the areas surrounding the project site approved for residential and open space uses. The Santa Monica project implements the goals and policies of the BMR Subarea Plan by creating a planned residential development that combines a predominantly residential community with an extensive open space and recreation system. The proposed development areas have been located to minimize grading and respect environmentally sensitive areas. The proposed Santa Monica project has been designed in harmony with the BMR Subarea Plan, implements its plans, goals and policies, and therefore will not adversely affect the Subarea Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare: The proposed project, together with surrounding land development (mass grading design, provision of roadways, utilities, and public facilities, drainage infrastructure, preservation of open space, etc.) in the Subarea, have been designed to conform with a wide variety of the City of San Diego's codes, policies, and regulations whose primary focus is the protection of the public's health, safety, and welfare. The Santa Monica project has been reviewed by City staff and is consistent with the Black Mountain Ranch Transportation Phasing Plan, water and sewer study recommendations, the City's affordable housing policies, requirements for a healthy pedestrian environment, etc. In addition, prior to the actual construction of homes on the subject property, City staff will review building permit plans against the Uniform Building Code to assure that structural, mechanical, electrical, plumbing, and access components of the project are designed to protect the public's health, safety and welfare.

3. The proposed development will comply with the regulations of the Land Development Code: The proposed Santa Monica project has been designed to comply with all development regulations of the Land Development Code including requirements for density, bulk and scale, setbacks, height, street design, open space, grading landscaping, brush management, lot dimensions, parking, etc. Implementation of the proposed Santa Monica project will not require any deviations from the City's Land Development Code.

4. The proposed development, when considered as a whole, will be beneficial to the community: The Santa Monica project, which proposes the development of 138 single unit homes and 26 affordable units on a total of 85 acres, will be designed and developed in accordance with Design Guidelines to assure that the residential theme, architectural character, development considerations and other fundamental concepts of the BMR Subarea Plan are implemented. Much of the land use pattern at Black Mountain Ranch, including the Santa Monica project, is a consequence of comprehensive resource analysis, therefore development areas have been sited in response to a range of environmental considerations including sensitive land forms, steep slopes, wetlands, biological habitats, archaeological sites, and water courses. The plan for Black Mountain Ranch focuses development in two villages surrounded by significant open space, recreational amenities, and low-density development such as Santa

Monica. Overall, it is a plan designed to work with the natural environments, to create pleasing neighborhoods and exceptional recreational facilities. The Santa Monica project implements the BMR Subarea Plan, and therefore will be beneficial to the community as a whole.

5. Any proposed deviations pursuant to SDMC section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved designed in strict conformance with the development regulations of the applicable zone: The proposed Santa Monica project has been designed to comply with all development regulations of the Land Development Code. The proposed Santa Monica project will not require any deviations from the City's Land Development Code.

II. FINDINGS FOR SITE DEVELOPMENT PERMIT APPROVAL - SDMC SECTION 126.0504

A Site Development Permit may be approved or conditionally approved only if the decision maker makes all of the findings in SDMC section 126.0504(a) and the supplemental findings in SDMC section 126.0504(b) through (m) that are applicable to the proposed development as specified in this section.

1. The proposed development will not adversely affect the applicable land use plan: The Santa Monica project is located in the western section of the 5,100 acre BMR Subarea. The BMR Subarea Plan designates this site for moderately low density residential development, with the majority of the areas surrounding the project site approved for residential and open space uses. The Santa Monica project implements the goals and policies of the BMR Subarea Plan by creating a planned residential development that combines a predominantly residential community with an extensive open space and recreation system. The proposed development areas have been located to minimize grading and respect environmentally sensitive areas. The proposed Santa Monica project has been designed in harmony with the BMR Subarea Plan, implements its plans, goals and policies, and therefore will not adversely affect the BMR Subarea Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare: The proposed project, together with surrounding land development (mass grading design, provision of roadways, utilities, and public facilities, drainage infrastructure, preservation of open space, etc.) in the Subarea, have been designed to conform with a wide variety of the City of San Diego's codes, policies, and regulations whose primary focus is the protection of the public's health, safety, and welfare. The Santa Monica project has been reviewed by City staff, and is consistent with the BMR Transportation Phasing Plan, water and sewer study recommendations, the City's affordable housing policies, requirements for a healthy pedestrian environment, etc. In addition, prior to the actual construction of homes on the subject property, City staff will review building permit plans against the Uniform Building Code to assure that structural, mechanical, electrical, plumbing, and access components of the project are designed to protect the public's health, safety and welfare.

3. The proposed development will comply with the regulations of the Land Development Code: The proposed Santa Monica project has been designed to comply with all development regulations of the Land Development Code including requirements for density, bulk

and scale, setbacks, height, street design, open space, grading landscaping, brush management, lot dimensions, parking, etc. Implementation of the proposed Santa Monica project will not require any deviations from the City's Land Development Code.

II. SUPPLEMENTAL FINDINGS - ENVIRONMENTALLY SENSITIVE LANDS

A Site Development Permit required in accordance with SDMC section 143.0110 because of potential impacts to environmentally sensitive lands may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in SDMC section 126.0504(a).

1. The site is physically suitable for the scale and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands: The proposed residential development is at a location and scale consistent with the Subarea I Plan. Portions of the property have been disturbed for agricultural uses in the past. The proposed project will impact a total of 0.08 acres of non-wetland jurisdictional waters of the U.S. with disturbed riparian scrub vegetation, and 67.1 acres of non-native grassland. Of the impacts to disturbed riparian scrub, 0.07 are permanent and 0.01 are temporary. The impacted acres of riparian scrub are considered significant and will require a 404 permit from the U.S. Army Corps of Engineers, a California Department of Fish and Game streambed alteration agreement, and a 401 water quality certification or waiver from the Regional Water Quality Control Board.

Impacts to non-native grassland are considered significant by the City of San Diego. All of these impacts would be mitigated in accordance with the requirements of the BMR Subarea Plan EIR, City's Biological Guidelines, and Environmentally Sensitive Lands regulations.

Two additional habitat vegetation communities, southern maritime chaparral and disturbed coastal sage scrub, were identified on the property. Both of these sensitive vegetation types are outside the project footprint and will not be impacted by the development.

2. The proposed development will minimize the alteration of natural land form, and will not result in undue risk from geologic and erosional forces, flood hazard, or fire hazards: The project site does not contain sensitive slopes or other prominent landforms. The grading for development is necessary to provide building sites with suitable gradient for utilities and internal streets. Manufactured slopes will be rounded with variable height and aspect to achieve a more natural appearance to the finished grades. The manufactured slopes will be landscaped with native shrubs and trees to enhance their appearance. A geotechnical review of the property did not identify geologic or seismic hazards. There is no floodplain mapped on the property and the development will be above grade from the existing small drainage area. The site is covered in agriculturally disturbed weeds and grasses and there is no large source of fuel for wildfires. Fire protection with respect to finished landscaping and required fire protection water supplies will be provided.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands: Consistent with the adopted

Subarea Plan, the development footprint has been sited on the flatter portion of the site which was previously used for agricultural purposes. Development areas within the Subarea were sited in response to a range of environmental considerations, including sensitive land forms, steep slopes, wetlands, biological habitats, archaeological sites, and water courses. There are no environmentally sensitive lands surrounding the site. Streets and residential development exist to the west and are planned to the south, east and north of the site on adjoining lands. Therefore, the project will not adversely impact adjacent environmentally sensitive lands.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan: The BMR Subarea Plan, as well as the BMR Tentative Map and PDP established the boundary of the Multiple Habitat Planning Area [MHPA] within the Subarea. This proposed development is entirely consistent with the MHPA preserve boundary. The site is not within or adjacent to the MHPA.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply: This development is several miles from the public beaches and the local shorelines; therefore, it is unlikely that on-site development will contribute to erosion of the public beaches or adversely impact the local shoreline sand supply. Moreover, surface runoff and drainage from the site is conveyed by curb and gutter to inlets, and then via pipes to desilting/filtration basins. These detention/water quality infiltration basins will reduce water runoff velocities to the extent water runoff might contribute to erosion of public beaches or adversely impact local shoreline sand supply.

6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development: Mitigation for impacts to wetlands is being provided on-site through restoration and enhancement of the existing drainage course. Impacts to non-native grasslands will be mitigated in accordance with the requirements of the BMR Subarea Plan EIR, City's Biological Guidelines, and Environmentally Sensitive Lands regulations. All mitigation is consistent with that identified for the Subarea I Plan EIR (LDR No. 96-7902). Thus, all mitigation reasonably related to and calculated to alleviate negative impacts created by the proposed development has been or will be incorporated into the conditions of the Development Permits.

IV. SUPPLEMENTAL FINDINGS - ENVIRONMENTALLY SENSITIVE LANDS DEVIATIONS

A Site Development Permit required in accordance with SDMC section 143.0110 because of potential impacts to environmentally sensitive lands where a deviation is requested in accordance with SDMC section 143.0150 may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in SDMC section 126.0504(a) and the supplemental findings in SDMC section 126.0504(b).

1. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive land: Impacts to wetlands are unavoidable as the drainage bisects the entire site. Road and utility crossing of this drainage is necessary to provide access within the property. Avoidance of this impact is only possible with a bridge crossing which

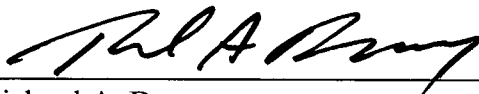
is economically infeasible to the applicant and not otherwise warranted due to the low quality and functionality of the existing wetland habitat.

2. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making: The existing drainage bisects the property and a crossing is unavoidable if the entire site is to be used as identified in the Subarea I Plan. Additionally, in order to connect to existing sewer and water facilities adjacent to the southeasterly corner of this project, the fill crossing over the drainage is required for the sewer and water utilities.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Site Development/Planned Development Permit No. 40-0969 is granted to Western Pacific Housing, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By 
Richard A. Duvernay
Deputy City Attorney

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03/01/02
Or.Dept:Clerk
R-2002-855
Form=permitr.frm
Reviewed by Mike Westlake

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED DEVELOPMENT PERMIT/SITE DEVELOPMENT PERMIT NO. 40-0969
SANTA MONICA AT BLACK MOUNTAIN RANCH (MMRP)
CITY COUNCIL

This Planned Development Permit/Site Development Permit is granted by the Council of the City of San Diego to Western Pacific Housing, Owner/Permittee, pursuant to the San Diego Municipal Code [SDMC]. The 84.7-acre site is located in the southwestern portion of the Black Mountain Ranch Subarea in the proposed RS-1-12 zone of the Black Mountain Ranch Subarea Plan. The project site is legally described as the West One-Half of the Northwest One-Quarter of Section 2, Township 14 South, Range 3 West, San Bernardino Meridian.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to develop 138 single-family homes, 26 affordable housing units, and a 2.6-acre recreational facility described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated December 11, 2001, on file in the Development Services Department. The facility shall include:

- a. 138 single-family homes, 26 affordable housing units, and a 2.6-acre recreational facility;
 - b. Landscaping (planting, irrigation and landscape related improvements);
 - c. Off-street parking facilities; and
 - d. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the Land Development Code in effect for this site.
2. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals.

Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal/Land Development Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

3. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Permittee signs and returns the Permit to the Development Services Department; and
- b. The Permit is recorded in the office of the San Diego County Recorder.

4. Unless this permit has been revoked by the City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.

5. This permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

6. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.

7. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 et seq.).

8. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third

Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this permit and of full satisfaction by Permittee of mitigation obligations required by this permit, as described in accordance with Section 17.1D of the IA.

9. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

10. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated December 11, 2001, on file in the office of the Development Services Department. No changes, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

11. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the new permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. Prior to issuance of any grading permits, the permittee shall deposit \$7,500.00 with the Environmental Analysis Section [EAS] of the Development Services Department to cover the City's costs associated with ensuring the implementation of the Mitigation, Monitoring and Reporting Program [MMRP].

13. The permittee shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in the Santa Monica Addendum (LDR No. 40-0969) to the Black Mountain Ranch Subarea Plan EIR (LDR No. 96-7902), to the satisfaction of the Environmental Review Manager and City Manager. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: Transportation/Circulation, Biological Resources, Hydrology/Water Quality, Landform Alteration/Visual Quality, Paleontological Resources, and Public Facilities/Services.

14. Prior to issuance of any certificate of occupancy, the permittee shall provide a letter from the County Environmental Health Department Vector Surveillance and Control Division to the Environmental Review Manager verifying that a vector control program has been designed and is satisfactory. Prior to issuance of any certificate of occupancy, the owner/permittee shall demonstrate that the Vector Control Program has been incorporated into project design as necessary, in a manner satisfactory to the Environmental Review Manager.

15. Prior to issuance of any grading permits, the owner/permittee shall make arrangements to schedule a pre-construction meeting to ensure implementation of the MMRP. The meeting shall include the Owner/Permittee or designee, the City Resident Engineer assigned to the project, along with staff from the City's Mitigation Monitoring Coordination Section and the Environmental Analysis Section.

TRANSPORTATION REQUIREMENTS:

16. Prior to issuance of any building permit, the proposed project shall conform to the Black Mountain Ranch/Subarea I Transportation Phasing Plan in the Public Facilities Financing Plan, dated September 1998.

17. The applicant shall provide a sidewalk on both sides of Street "A" from Street "E" to Street "B" south, satisfactory to the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

18. No fewer than 44 off-street parking spaces shall be maintained on the Affordable Housing property at all times in the approximate locations shown on the approved Exhibit "A," dated December 11, 2001, on file in the Development Services Department. Parking spaces shall comply at all times with requirements of the Municipal/Land Development Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

19. The Planned Development/Site Development Permit shall comply with the conditions of the Final Map for Vesting Tentative Parcel Map No. 40-0969.

20. The pedestrian/bicycle entrance of the project shall provide permanent open access. No gates may be located at the pedestrian/bicycle entry to the project.

21. Applications for future modifications or additions to the approved plans shall include evidence of Property Owner Association [POA] approval.
22. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.
23. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.
24. A topographical survey conforming to the provisions of the Municipal/Land Development Code may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the permittee.
25. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.
26. All signage associated with this development shall be consistent with sign criteria established by either of the following:
 - a. Approved project sign plan (Exhibit "A," dated December 11, 2001, on file in the Development Services Department); or
 - b. Citywide sign regulations.
27. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
28. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
29. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
30. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side

or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

31. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.

32. Prior to the issuance of building permits for the affordable housing project, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC regulations) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," dated December 11, 2001, on file in the Development Services Department.

LANDSCAPE REQUIREMENTS:

33. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

34. In the event that a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Concept Plan, dated December 11, 2001, on file in the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area."

35. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated December 11, 2001, on file in the Development Services Department.

36. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way and median (if applicable) improvements shall be submitted to the City Manager for approval. Improvement plans shall identify a station point for each street tree location. Each street tree location must take into account a 40 square foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees. Location of street trees shall be identified and reserved during improvement activities and on all site plans prepared for subsequent building permit applications with actual installation taking place prior to

final inspection for a specific building permit. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated December 11, 2001, on file in the Development Services Department.

37. Prior to issuance of any engineering permits for grading, construction documents for slope planting or re-vegetation and hydro seeding of all disturbed land including irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to Permit No. 40-0969 (including environmental conditions) and Exhibit "A," dated December 11, 2001, on file in the Development Services Department.

38. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.

39. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

40. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

41. The Owner/Permittee shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards unless long-term maintenance of street trees, right-of-way and median landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

42. If any required landscape (including existing or new plantings, hard scape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within 30 days of damage or Certificate of Occupancy.

BRUSH MANAGEMENT REQUIREMENTS:

43. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Program/Landscape Concept Plan, dated December 11, 2001, on file in the Development Services Department.

44. Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit "A," Brush Management Program/Landscape Concept Plan, dated December 11, 2001, on file in the Development Services Department.

45. Prior to issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval to the City Manager and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit "A," Brush Management Program/Landscape Concept Plan, dated December 11, 2001, on file in the Development Services Department, and shall comply with the Uniform Fire Code (SDMC § 55.0889.0201), the Landscape Standards, and SDMC section 142.0412 (Ordinance No. O-18451).

46. The construction documents shall conform to the Architectural features as described in SDMC section 142.0412(d).

47. Within Zone One, combustible accessory structures, (including, but not limited to decks, trellises, gazebos, etc.) are not permitted while non-combustible accessory structures may be approved within the designated Zone One area subject to Fire Marshall and the City Manager's approval.

48. Provide the following note on the Brush Management Construction Documents: "It shall be the responsibility of the Permittee to schedule a pre-construction meeting on site with the contractor and the Planning and Development Review Department to discuss and outline the implementation of the Brush Management Program."

49. In Zones One and Two, plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Section and the Environmental Analysis Section.

50. The Brush Management Program shall consist of two zones consistent with the Brush Management regulations of the SDMC section 142.0412 as follows:

Lot #'s	All East of I-805	Zone One	Zone Two
1 - 36			None required
37 - 50		35'	50'
51 - 65			None required
66 - 77		35'	50'
78, 79			None required
80 - 84		35'	50'
85 - 138			None required

51. Prior to final inspection and issuance of any Certificate of Occupancy, for any building, the approved Brush Management Program shall be implemented.

52. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

WATER REQUIREMENTS:

53. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of appropriate public water facilities, both potable and recycled, as identified in the accepted water studies necessary to serve this development in a manner satisfactory to the Water Department Director and the City Engineer.

54. Prior to the issuance of any building permits, the Black Mountain Reservoir and associated transmission pipelines shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

55. Prior to the issuance of any building permits, the developer shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director, and the City Engineer. If more than two (2) fire hydrants or 30 dwelling units are located on dead-end water facilities then the developer shall install adequate facilities to provide a redundant water supply in a manner satisfactory to the Water Department Director.

56. The developer agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto.

57. If on site water facilities are to be public and if it is a gated community, then prior to the issuance of any building permits, the developer shall provide keyed access to the Water Operations Division in a manner satisfactory to the Water Department Director and the City Engineer. The City will not be held responsible for any issues that may arise relative to the availability of keys.

58. Providing water for this development is dependent upon prior construction of certain water facilities in previously approved TM Nos. 98-0261, 98-0250, 99-0329, 96-7676, 88-1041, and 95-0153 including, but not limited to, the completion of the Black Mountain Reservoir and associated pipelines and a redundant source of water to this subdivision. If facilities have not been constructed when required for this development, then prior to the issuance of any building permits, the construction of certain portions of these previously approved water facilities, as required by the City Engineer, shall be assured, by permit and bond as off-site improvements required for this development.

SEWER REQUIREMENTS:

59. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

60. The developer agrees to design all proposed public sewer facilities in accordance with established criteria in the City of San Diego's current sewer design guide. Proposed facilities that do not meet the current standards shall be redesigned or private.

61. The developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each lot will have its own sewer lateral or provide Covenants, Conditions and Restrictions [CC&Rs] for the operation and maintenance of on-site private sewer facilities that serve more than one lot.

62. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

AFFORDABLE HOUSING REQUIREMENTS:

63. Prior to the filing of the first final map, subdivider shall comply with the requirements of the Black Mountain Ranch Subarea Plan for Affordable Housing [Affordable Housing Requirements] by satisfying the requirements of subparagraph A below:

A. Subdivider shall assure the construction and occupancy of an Affordable Housing Project consisting of twenty-six units to be constructed on Lot 139, as shown on the Exhibit "A," dated December 11, 2001, on file in the Development Services Department. Subdivider shall execute an Affordable Housing Agreement, subject to the approval of the Executive Director of the Housing Authority of the City of San Diego, or designee, and the City Manager of the City of San Diego, or designee, addressing the following issues:

1. Performance Security for the construction of the Affordable Housing Project and dedication of the identified land [Affordable Housing Site], for the construction of the Affordable Units onsite, in the form of bond(s), letter(s) of credit, lien(s) and/or other forms of security acceptable to the Executive Director;

2. Approval of the timing of the construction and occupancy of the Affordable Housing Project, acceptable to the Executive Director, provided that the following timetable is incorporated into the Affordable Housing Agreement:

a. Issuance of building permits for the Affordable Housing Project shall occur on or before the earlier of:

(i) The issuance of building permits for construction of the 69th market rate dwelling unit (the number which represents 50 percent of market rate units); or the date which is eighteen months after the filing of the first final map;

(ii) In no event shall the issuance of building permits for the construction of the 69th market rate unit occur until building permits for construction of the twenty-six affordable units are authorized by the City and are obtained by the subdivider. Further,

if individual parcels are sold initially by subdivider without first obtaining building permits for construction of the market rate units, every such parcel sold shall nonetheless be included with the total number of building permits issued in determining when the issuance of the building permit occurs for the 69th and 103rd or greater market rate unit;

b. Completion of construction of the Affordable Housing Project shall occur upon the earlier of:

i Twelve months after the issuance of building permit for the Affordable Housing Project as referenced in subparagraph 2a above; or

ii The date which is two and one-half years after the filing of the first final map.

Further, the issuance of building permits for the construction of the 103rd market rate unit (the number of units which represents 75 percent of market rate units) shall not occur until the completion of the twenty-six affordable units is authorized by the City.

c. Occupancy of the Affordable Housing Project shall occur not later than 180 days after the completion of construction as referenced in subparagraph 2b above.

d. For "good cause" shown to the satisfaction of the Executive Director, the dates referenced herein may be extended for one or more period(s) of up to twelve months each. Good cause shall include, but not be limited to, Acts of God, labor strikes, war, riots, financial infeasibility, acts of Federal or State governmental agencies, litigation, etc., as shall be determined by the Executive Director, in the Director's sole discretion.

3. A Declaration of Covenants, Conditions and Restrictions [CC&Rs], restricting the occupancy and affordability of the Affordable Housing Project for a period of fifty-five years from the date of completion of the Affordable Housing Project, which CC&Rs shall incorporate the Affordable Housing Agreement by reference, shall be recorded against the Affordable Housing Site in a first priority position. All Affordable Units shall be for occupancy by and at rates affordable to families earning no more than 65 percent of the area median income, as adjusted for family size. However, in the case of affordable rental units, the provisions set forth in California Government Code section 65915, referred to as the State Density Bonus Statute applies and rental rates shall not exceed 60 percent of the area median income, as adjusted for assumed family size and utilities.

4. Additional security for the performance by the subdivider of the Affordable Housing Requirements shall be provided by a deed of trust in favor of the Executive Director, recorded against the Affordable Housing Site, in second lien priority (junior only to the CC&Rs) assuring the timely performance of the Agreement referenced in subparagraph A, hereof. The deed(s) of trust in favor of the Housing Authority may be subordinated to construction deed(s) of trust and/or permanent financing deed(s) of trust in favor of institutional lenders, as approve by the Executive Director, in the Director's sole discretion, if deemed essential to

construction and/or operation of the Affordable Housing Project, upon such terms and conditions as the Director may impose.

5. Such other and further conditions as may be reasonably required by the Executive Director to assure satisfaction of the Affordable Housing Requirements, and such modification of existing condition(s), as may be granted by the Executive Director in the Director's sole discretion.

6. Subdivider, and their successors, heirs and assigns shall execute such other and further documents and shall perform such acts, as shall be requested by the Executive Director and the City Manager and as may be required from time to time to effectuate the provisions of Affordable Housing Agreement as contemplated by these condition(s) of approval.

31. The Santa Monica at Black Mountain Ranch (No. 40-0969) Affordable Housing Program is on file in the Development Services Department and is incorporated herein. The provisions of the Affordable Housing Program shall not in any way modify or change any provisions of the Affordable Housing requirements as stated in the Planned Development Permit/Site Development Permit conditions. To the extent that there is any inconsistency between the two, the terms of this permit shall prevail.

INFORMATION ONLY

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within 90 days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the Council of the City of San Diego on December 11, 2001, by Resolution No. R-295879.

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AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

WESTERN PACIFIC HOUSING
Owner/Permittee

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

6/10/02

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